

**Environmental Quality Commission  
Minutes for Public Meeting  
August 22, 2002  
Clean Water Act At 30  
Room 125, Capitol Annex, Frankfort**

**EQC Commissioners and Staff Present**

Aloma Dew, Chair

Betsy Bennett, Vice-Chair

Bob Riddle

Gary Revlett

Patty Wallace

**Staff**

Leslie Cole, Director

Erik Siegel, Assistant Director

Lola Lyle, Research Analyst

Frances Kirchhoff, Administrative Assistant

**Speakers/Representatives Present**

Jeff Pratt, Director, Division of Water

Alan Vicory, Director, Ohio River Valley Water Sanitation  
Commission (ORSANCO)

Hank Graddy, Sierra Club

Lloyd Cress, Kentucky Chamber of Commerce

Judi Petersen, Kentucky Waterways Alliance

Jim Villines, Dept for Surface Mining

Carl Millanti, Division of Air Quality

**Commissioners not attending**

Serena Williams

Jean Dorton

**Open Meeting**

Environmental Quality Commission (EQC) Chair, Aloma Dew, opened the meeting at 1:00 p.m. Approximately 20 people were present. Minutes were approved for the May 30, May 31 and July 30 meetings. It was moved by Betsy Bennett and seconded Patty Wallace to approve the minutes for May 30. It was moved by Betsy Bennett and seconded Bob Riddle to approve the minutes for May 31. It was moved by Patty Wallace and seconded Bob Riddle to approve the minutes for July 30. All minutes were unanimously approved and passed.

**Clean Water Act: Opening Remarks**

The focus of the Aug. 22 EQC public meeting was to discuss the future of clean water in Kentucky in recognition of the 30<sup>th</sup> anniversary of the Clean Water Act. One of the most significant environmental laws in Kentucky is the Clean Water Act, according to EQC Chair Aloma Dew. Ms. Dew stated that 30 years ago, waterways in Kentucky were in crisis. Some 72 percent of Kentucky's monitored waterways were polluted to the point that they could not be used fully for swimming, fishing or drinking. The Clean Water Act announced a national mission to "restore and maintain the chemical, physical, and biological integrity of the nation's water." The new law set some important goals--zero discharge of pollutants into navigable waterways by 1985, and waters fishable and swimmable by 1983. As a result the percent of monitored waterways in Kentucky impaired by pollution dropped from 72 percent in 1972 to 34 percent in 1999. But problems still remain. Dew noted that a recent listing of impaired waters in Kentucky included 949 waterways that have exceeded pollution limits. And fish consumption advisories are currently in effect for all waterways in the Commonwealth. EQC has invited state, industry, and environmental leaders to review the accomplishments made under the Clean Water Act as well as the challenges that remain.

**Clean Water Act: Division of Water Perspective**

The first speaker was Jeff Pratt, Director of the Division of Water. Mr. Pratt highlighted some of what the Division of Water has been doing to protect the water resources of Kentucky since the passage of the Clean Water Act.

- **Funding and construction of wastewater facilities.** Kentucky has awarded nearly \$1.1 billion for 319 projects. These projects have resulted in the elimination of almost 100 package treatment plants—41 on the Big Sandy alone.
- **Kentucky Pollution and Discharge Elimination System (KPDES).** This Division of Water began issuing KPDES permits in 1983 and has permitted 242 municipal facilities and more than 8,700 industrial facilities which includes approximately 4,800 coal mining general permit, 3,000 storm water permits, and 1,400 private and commercial permits.
- **Non-point source pollution.** Since 1990, \$32.5 million has been awarded to fund 243 nonpoint projects. Projects include Mammoth Cave area and Triplett Creek. Other non-point source projects include the Kentucky Agriculture Water Quality Act, and storm water management.
- **Wetlands.** Wetlands at one time were considered a nuisance and a breeding ground for mosquitoes. They are now valued for their role for aquatic habitat and the ecosystem and their role in water quality. The Corp of Engineers issued the No Net Loss policy and USDA has the Wetland Reserve program. In a 22-year period, we have seen a small net gain in wetlands.
- **Designation of outstanding state resource waters.** Currently Kentucky has 118 resource waters including wild rivers, underground river systems, lakes, and streams that contain federal and endangered species.

Mr. Pratt next reviewed the challenges to protect Kentucky's water.

- **Wastewater infrastructure.** In 2000, for new sewers alone, \$1.3 billion is needed. For wastewater treatment upgrades, \$755 million, for sewer rehabilitation, \$473 million for a total of \$2.79 billion estimated needed for 2000.
- **Elimination of straight pipes.** More than 635 straight pipes have been investigated and 492 notices of violation have been issued. In the 38 county Eastern Kentucky PRIDE area; there are more than 36,000 straight pipes. These counties are not conducive to traditional wastewater septic systems. Alternatives must be found. Time and energy has been put forward to eliminate package plants in the state, but in some parts of the state, package plants might be a solution to eliminate straight pipes.
- **Total Maximum Daily Loads (TMDL).** In the 2002 303(d) list contains 949 water bodies not fully supporting use. A significant increase from 1998 with 372 water bodies. Work must be done to reduce this number.
- **Watershed Management initiative.** Water bodies were broken up into basins. Problems are approached by watershed basins allowing the Division of Water to focus their limited resources. This approach increases stakeholder involvement and other agencies. One advantage in the watershed management approach is TMDL development. Each watershed basin is tied to a schedule, which allows the flow of data to monitor progress, to develop TMDLs, and implement actions to address pollution problems.
- **Non-point source pollution.** An estimated 2/3 of the impaired waters are from non-point sources. These sources typically are those that are not regulated. A lot of the projects in the non-point source programs are designed to increase public education and awareness.
- **Tri-annual review process for the water quality standards.** This review of water quality standards will begin this fall. The Division of Water will look at the anti-degradation provision that the U.S. EPA has found deficient in Kentucky's current regulations. The Division will propose: (1) to add 113 new exceptional waters and reference reach streams; (2) propose e-coli as a criteria for protection of recreational use; (3) propose to add methyl-mercury as criteria to protect public health for fish consumption; (4) propose to lower arsenic criteria for domestic water supply and (5) add several new streams to the list of outstanding state resource waters.

Mr. Pratt closed by stating that Kentucky has come a long way in protecting its water, but it still has a long way to go.

## Questions and Answers

**Q.** In 1998, 300 streams were listed as impaired and in 2002, 900 streams were listed. What was the main reason for this change?

**A.** The main reason is more awareness and more focus on assessments and monitoring of watershed basins.

**Q.** You mentioned that 2/3 of impaired streams are from a nonpoint source pollution. Agriculture is one source but what are other non-point source pollutants?

**A.** Agriculture operations is one, others would be straight pipes, failed septic systems, and land disturbances such as mining and highway construction.

**Q.** How does the Division of Water plan to take on this task of non-point source pollution?

**A.** Additional staff has been approved but with the current budget constraints this is still a challenge.

**Q.** What do you see as the stakeholders' roles?

**A.** In the area of non-point source pollution for example, the role could be as an active participant with state agencies in the watershed basin program.

**Q.** What percentage of the 949 impaired waterways is the violation for fecal coliform only?

**A.** I have no exact quote, but I think it is a significant portion.

**Q.** Isn't non-point source pollution the most difficult to solve? It seems to be a monumental task. How are we going to come up with the money for that?

**A.** Failed septic systems and straight pipes are a challenge. Congressman Hal Rogers has come up with a significant amount of funding through the PRIDE program. Is it enough—we don't know, but it is one source of funding to help.

**Q.** Do you plan to accommodate "X" number of people in "X" amount of time?

**A.** We are just beginning to do that kind of planning and integrate that in the watershed basin approach.

**Q.** Do you get any kind of support or help from County Health Departments in regard to straight pipes?

**A.** Some counties are helpful and some are not. They are stakeholders and we want them to be involved.

**Q.** Are straight pipes a Division of Water problem or a County Health Department problem?

**A.** It is a Division of Water problem if the water from the pipe is polluting a waterway.

**Q.** What is the state's position on valley fills? Does it consider the practice as breaking the Clean Water Act?

**A.** This is a federal issue and it is in federal court. We will comply with their decision under the 404 and 401 Water Quality Certification.

**Q.** What about the water impacts of proposed power plants?

**A.** Things are in place for water quality, but the bigger issue may be with the water quantity and water supply issues associated with power plants.

**Q.** The *Kentucky Post* had an article stating the 1998 figure and the 2002 figure of impaired waterways. The 2002 figure is more than twice as many as 1998. How did this come about?

**A.** The difference is not more degradation in the water bodies from 1998 to 2002, but is a change in the way monitoring is now done in the focused watershed basin approach.

### **The Clean Water Act: Ohio River Sanitation Commission Perspective**

The next speaker was Alan Vicory, Director of the Ohio River Valley Water Sanitation Commission, (ORSANCO). ORSANCO is a regulatory agency created 54 years ago. It was created before there was a U.S. Environmental Protection Agency and when there was not much in the way of federal law. But yet there was the realization in the Ohio Valley that one state's pollution was causing another state's problem. ORSANCO is an interstate water pollution control agency created in 1948 to control and abate pollution in the Ohio River Basin. ORSANCO is an interstate commission representing eight states and the federal government. Member states include Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia and West Virginia.

Much of ORSANCO's resources are put into monitoring and assessment. ORSANCO does a lot of program coordination among the eight states. The Ohio River is a working river that has multiple uses and spills will happen. Over time, however, water quality the Ohio River has improved. The Clean Water Act was a milestone in that it required biological treatment for point sources. The River has changed from one known as an open sewer to one that in 1981 was the site of a national bass tournament. This is happening because of the improvements made in pollution control. The state of the Ohio River is best described by saying, "when the weather conditions are dry for a period of time the river is in pretty good shape, but when it rains then it changes." And that is typical with all waterways. It changes mostly due to non-point source pollution. The Ohio River has 12 percent of the nation's combined sewer overflows (CSOs). A particular challenge is that many of the CSOs are in interstate settings. That means that not only does ORSANCO have to deal with water quality problems within state boundaries, but also within different EPA regions. One of the important functions ORSANCO serves is to eliminate the challenges by bringing the players together, pointing out where there seems to be differences in policy, and making changes.

Mr. Vicory next outlined several challenges.

- **Non-point source pollutants.** Not already mentioned as a non-point source are pesticides. In the spring atrazine levels in the river are accelerated.
- **The Zone of Hypoxia.** Also called the hypoxic condition, is a large area that has a very low or absent of dissolved oxygen. This sometime occurs in the summer.
- **Fish advisory.** Because of high levels of mercury in the water people are advised not to eat fish from the Ohio. The cause of mercury in the river is hard to pin down. Mercury in the environment is caused naturally as well as from smokestacks. Mercury in the water is a global issue.
- **Endocrine disrupting chemicals.** This is a growing concern in Europe and a growing concern here. Research is still being done.
- **Spills.** The Ohio is a working river and spills are going to happen such as the 1988 Ashland Oil spill that occurred in Pittsburg and the coal spill on the Big Sandy.
- **Sewage treatment plants.** We have been building sewage treatment plants for the last 30 to 40 years and doing a very good job. The major problems are being taken care of, but the secondary problems, such as those that arrive from rainfall and non-point source pollution and bacteria are now the primary problems. The Clean Water Act allows us to focus on these from a regulatory standpoint. Important players in the solution of non-point source pollution has been determined to not be under federal law so cooperative approaches are going to be needed and time and technology.

Mr. Vicory closed his remarks by stating that more than 30 percent of the waters in this country are shared by more than one state. Water doesn't respect political boundaries. We need to break down political barriers and look at waters on a watershed basis--it's all interconnected. Our biggest challenge in the next 30 years is to integrate the political jurisdictions and integrate the laws. It will need to start with

coordination of water quality standards for rivers that are shared because that becomes the basis for listing TMDLs and determining that we have problems.

### **Question and Answers**

**Q.** What about fish advisories?

**A.** This is a real challenge because of jurisdictions and differences in some state's advisories. ORSANCO does not have jurisdiction to post warning signs. That is up to the states along the Ohio River to post warnings.

**Q.** So in the beginning ORSANCO was created as a Watershed Planning organization?

**A.** Yes.

**Q.** Since ORSANCO is a watershed protection program, couldn't ORSANCO be used as a model for Kentucky's watershed program?

**A.** Yes, and in Cincinnati, we have been used as a model many times.

**Q.** Is dioxin in the Ohio still a problem?

**A.** It is there and studies are being done but there is no real source of dioxins.

**Q.** Does ORSANCO have citizen volunteer monitors?

**A.** Yes. I get concerned about the quality of the data point. But the data is still valuable to tell us that there may be a problem. We are not sure the data is perfect or meets a court test or whatever, but it may signal that there could be a problem and in that regard the data is useful.

**Q.** ORSANCO does take volunteer data and you do use it?

**A.** Absolutely

**Q.** Does ORSANCO do River Sweep?

**A.** Yes, we do. We have been doing that for 12 years now.

**Q.** Would you support an Ohio River Water Quality initiative similar to the one that was done for the Chesapeake Bay and the Great Lakes?

**A.** The water bodies of the Ohio River and the Great Lakes are very different. For example, a toxic chemical that enters the Great Lakes sits there for about 100 years. A toxic chemical that enters the Ohio is there about 30 days.

**Q.** Do it take it your answer is "no"?

**A.** I'm interested in the need for more research on the basin system. I think we have an Ohio River initiative in place through ORSANCO. —we do have the states, we do have the EPA around the table. My understanding is the EPA drives the Great Lakes initiative substantially. The states and the EPA drive ours.

**Q.** When will we have TMDLs for Cincinnati and Northern Kentucky or Louisville?

**A.** I don't know. We are working now to set up priorities for 303(d) TMDL. What we have done today has been driven by court settlement in West Virginia.

**Q.** That is what worries me. If your priorities are set by court, then you are basically saying that in order to have one for Cincinnati and Louisville, then you will have to be sued.

**A.** No, I'm not saying that, but when you have a court settlement and the judge says it has to be in, then it has to be in.

### **The Clean Water Act: Environmental Community Perspective**

The next speaker was Mr. Hank Graddy, an attorney and a member of the Cumberland Chapter of the Sierra Club. Mr. Graddy has been involved in water quality issues for a number of years. Mr. Graddy spoke about the challenges and opportunities facing Kentucky.

Mr. Graddy said the Clean Water Act's promise is to eliminate the discharge of pollutants into the nation's waters. Congress showed both commitment and humility by approving several methods to keep this promise. Kentuckians know those methods by the acronyms: NPDES permits, TMDLs, BMPs, CAFOs, anti-degradation. Kentuckians are told we cannot afford clean water.

Thirty years after Congress made the Clean Water Act's promise we still hear terms that tell us the promise has not been kept. The latest official water quality indicator for the Commonwealth of Kentucky, the Draft 303(d) List of Impaired Waterways in Kentucky has been released. This lists impaired streams needing Total Maximum Daily Load (TMDL) development. The current draft now lists 949 water body segments as impaired. The previous list in 1998 identified 367. The list has nearly tripled since 1998. And this list understates the magnitude of the water quality problems in Kentucky because it omits impaired water segments where the Division of Water concludes that the impairment is caused by lack of enforcement. The list does not include stream segments where reliable citizens' monitoring data shows evidences of impairment not yet confirmed by the Division of Water. The 303 (d) list is incomplete.

Mr. Graddy noted that the promise of the Clean Water Act has not been kept. How do we keep the promise? Citizens across Kentucky can help keep the Clean Water Act promise. Citizens have formed the Watershed Watch in Kentucky. Over the past five years, citizens have built and maintained a statewide citizens' monitoring effort to improve and protect water quality by raising community awareness and supporting implementation of the goals of the Clean Water Act. Industry, state enforcement agencies and citizens must change. Kentuckians have to change attitudes and behaviors.

Mr. Graddy next reviewed both challenges and opportunities.

- Division of Water must write a Clean Water Act 303(d) list that more accurately reports the magnitude of the water quality problems in Kentucky and use all available tools and techniques to remedy problems.
- Use the Agriculture Water Quality Act to address agricultural and silvicultural water quality problems.
- Use the Eastern Kentucky PRIDE and the Bluegrass PRIDE for solving pollution problems in Eastern and Central Kentucky.
- Use the Governors Smart Growth Task Force recommendations to restore and protect water quality.
- Use Kentucky's water as our economic development strategy. Kentucky is a headwater state. We control our water quality destiny.
- Use the laws in Kentucky to safeguard from pollution the uncontaminated waters of the Commonwealth, prevent the creation of any new pollution of the waters of the Commonwealth, and to abate any existing pollution of the waters of the Commonwealth.

### **The Clean Water Act: Regulatory Community Perspective**

The Chair introduced the next speaker Mr. Lloyd Cress, Environmental Director with the Kentucky Chamber of Commerce. Mr. Cress noted that he was speaking on his behalf and not for the Chamber.

Mr. Cress has long been involved in a number of environmental issues in Kentucky. In 1967, Mr. Cress served as general counsel for water quality for the Kentucky Water Pollution Control Commission. Mr.

Cress stated that he worked in water quality issues both before and after the Clean Water Act. The Water Pollution Control Commission addressed water quality problems. It was a nine-member group that made policy and regulatory decisions in public meetings. Resources were limited. There were limited dollars, limited personnel, and limited regulatory tools. All problems were debated in public and there was no question about it. All one had to do was read the newspaper the next morning to see what problems were reviewed by the commission and what the options and viewpoints were in solving them. Everything was settled in public and there was a high level of consensus that had to be developed because of the limited legal tools that were available to address those problems. When the Clean Water Act was adopted with it came lots of resources and lots of programs. Because of the Clean Water Act, a lot of wastewater treatment plants were built and water quality became substantially better. But the many programs of the Clean Water Act caused us to get away from the problem solving mentally that existed before the Clean Water Act. Today so much of the (NREPC) focus on programs--checking the blocks, getting EPA's approval--paperwork that in general has served us well and certainly necessary for any long-term program but may have lulled us to sleep in terms of our ability to focus on what the real problems are and what the options are that we should consider in addressing them.

Mr. Cress noted that it is important to get back to that problem solving mentally that we have lost, and focus on those things that truly impair the usefulness and quality of the water and prioritize the issues. He notes that prioritizing issues and making real progress has to do with development of consensus that a problem exists and is worthy of disrupting our routine approach to things in order to deal with them. He stated that the 303(d) list came as a big surprise to most of us that work regularly in this area and he doesn't think that should have been the case. The current function through the NREPC as a regulatory agency in carrying out these functions may be efficient in accomplishing program areas, but it does not provide for the development of consensus. This kind of meeting today (public forums) is one way consensus can be developed.

Mr. Cress mentioned before the pre-Clean Water Act days, we functioned through a commission, which allowed debate, decision, and compromise that eventually resulted in some kind of consensus. It particularly concerns him when we talk about Totally Maximum Daily Loads (TMDL) and that TMDLs can be carried out or established and implemented through a Kentucky Pollution Discharge Elimination System (KPDES) permit. The TMDL not only effects the discharger that is receiving the permit but it effects the entire community, all water users, all dischargers and potential dischargers on a stream segment. All of those people have to be involved in the development of a consensus if we are going to solve a problem that is not just a problem with one discharger but is a general problem for all people in that region or sub-region.

We need to think of ways of sharing the information, allowing different viewpoints to be expressed, and developing priorities in terms of how to approach these problems. For many, the consensus may be that the solution is not worth the cost and if that's the answer, then that's the answer. But we won't know that unless we have had sufficient public discussion of the question, input from all effected entities, and some determination reached. A permit issuance relates to only a limited person or group of persons. There needs to be a problem-solving mindset and be less confrontational and more consensus-oriented. The watershed approach in addressing our water quality problems is one of the most positive things that I have become aware of in a long time. The idea of focusing attention on a limited issue, developing a factual basis for action regarding that resource, and then implementing it, seems to be the kind of approach necessary if we are going to get out the remaining problems that have not been addressed in a programmatic basis under the Clean Water Act.

## Questions and Answers

**Q.** The solution may not be worth the cost, would you elaborate on that?

**A.** There may be certain impairments where the impact of the problem does not justify the level of resources that would have to be applied to eliminate or address that problem. We have limited resources and whether those resources should be devoted to an issue is an issue worthy of consideration.

**Q.** The confrontational approach may result from the fact that the everyday kind of Kentucky citizen really doesn't have water quality issues at the forefront of their concerns. So with that in mind, the idea of "consensus" and public input but given the state of mind of the average Kentucky citizen, how do you propose doing that? Do you think that you can return it to the people that you will have less confrontation? How do we get the message back out to the people?

**A.** Why couldn't there be regional public information meetings conducted by the people who have the most information about it the Natural Resources and Environmental Protection Cabinet where the Trade Water River area people don't have to go to Frankfort to hear what the condition of their water is and what the implications are and what I think it is a matter of communication of information and that would be a way of educating people and participant in the consensus development process.

**Q.** What about the budget constraints issues?

**A.** I don't think it is a lack of resources, but a manner in which the resources are allocated. Some resources are used to satisfy programmatic requirements. That's the way it was set up with U.S. EPA and Kentucky has done a very good job of satisfying federal program requirements. The KPDES backlog is the envy of most of the states in the country. In all areas, they (NREPC) have done a good job with program elements. But I often wonder if all those workers who are checking blocks and submitting and preparing reports couldn't be out explaining to the people what all this means to them.

**Q.** The question concerning lack of personnel came under discussion with a possible solution to use the Water Watch Program participants as extra hands and feet.

**A.** Mr. Cress recalled a similar circumstance and agreed that non-professionals and volunteers may not have the expertise, but their observations are worth something. And it can be utilized non-professionals and volunteer's observations for what it is worth. It is certainly worth taking into account.

Bruce Scott, Chair of the Coordinating Committee with the Watershed Watch program, added that the purpose of Watershed Watch is to prepare citizens to drive Kentucky's compliance for the Clean Water Act. Watershed Watch trains citizens to take valid samples of water for different types of test to establish a chain of custody that is well documented for that sample tested at accredited or university laboratories and organize the data for public consumption. There is no problem with the quality of the data produced. Watershed Watch meets the U.S. EPA standards for volunteer monitoring.

## The Clean Water Act: Ky. Waterways Alliance Perspective

The Chair introduced the last speaker, Ms. Judi Petersen, Director of the Kentucky Waterways Alliance. The mission of the waterway Alliance is to protect and restore Kentucky's waterways and their watersheds by building effective alliances for their stewardship. The goal of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the nation's waters. Ms. Petersen gave a power point presentation. Highlights of the presentation were that Congress made it perfectly clear what the Clean Water Act is and its goals including that:

- the discharge of pollutants into the navigable waters be eliminated by 1985,
- wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provide for recreation in and on the water be achieved by July 1, 1983, and



- the discharge of toxic pollutants in toxic amount be prohibited.

Ms. Peterson stated that Kentucky has failed to meet the Clean Water Act's goals. Furthermore, Kentucky has legalized and institutionalized pollutant discharge permits system (KPDES) with no effort to eliminate permits. More than 10,000 discharge permits have been issued in Kentucky. Kentucky has a standard permit with no incentives to encourage pollution reduction. Kentucky ignores the national goal for toxic pollutants. Kentucky defines acute criteria and acute toxicity in order to allow mixing zones and zones of initial dilution. Kentucky's water is a public trust. Citizens expect our government to:

- keep the promise of clean water to make and keep all our 89,400 miles of water fishable, swimmable, and safe for drinking and all uses;
- maintain strong effective anti-degradation implementation policy;
- protective discharge permits when they are necessary;
- restore a strong TMDL program holding polluters accountable.

Ms. Petersen closed with a statement that it is time to keep the promise to maintain and restore water quality in Kentucky

### **EQC Recommendations**

Aloma Dew thanked the speakers for their presentations. Betsy Bennett made a motion that EQC ask the Division of Water extend the public comment period of the 303 (d) List of Waters for Kentucky by 30 more days. The motion was seconded by Patty Wallace and passed unanimously.

### **Other Business**

#### **Update on Martin County Coal Slurry Spill Agreed Order**

The Chair asked Jeff Pratt, Director of the Division of Water to give an update of the Martin County Coal Slurry spill. Mr. Pratt informed the group that an agreed order was signed on July 31, 2002. The order included a penalty of \$1 million; natural resources damages of \$1 million and \$500,000 for cost recovery; and Department for Surface Mining Reclamation and Enforcement (DSMRE) civil penalty of \$750,000 for a total of \$3.2 million. The agreed order suggests cooperation between various agencies with jurisdiction over the case, particularly U.S. EPA and DSMRE. The Agreed Order specifies that the full remediation and restoration must be completed by 2007. This remediation and restoration is all components including biological, water quality, riparian vegetation and stream morphology. Data are being collected on an ongoing basis both by Martin County Coal and the Division of Water. The Division of Water has several plans under review. Just this week the division received the restoration plan for Cold Water Fork. But the Division of Water is also reviewing risk assessment; impose assessment, and stream restoration plan. When approved, the work will proceed.

### **Questions & Answers**

**Q.** What documents are available for public comment and review before the agency accepts them and they start to be implemented?

**A.** I will have to check on that. I'm not sure.

### **Review of Surface Mining Regulations**

The Chair called Jim Villines from the DSMRE to give a brief explanation of proposed regulations 405 KAR 16:090 and 405 KAR 18:090. Mr. Villines stated that KAR 16:090 is an amendment to sedimentation ponds and adds a new section that established performance standards for other treatment facilities, and KAR 18:090 is an amendment to sedimentation ponds and adds a new section that established performance standards for other treatment facilities.

A motion was made by Gary Revlett to accept this regulation and seconded by Patty Wallace. The motion passed unanimously

**Review of Air Quality Regulations**

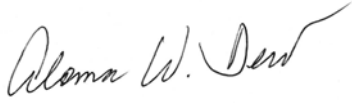
The Chair called Carl Millanti from the Division of Air Quality to give a brief explanation of the proposed NOx Reduction regulations 401 KAR 51-001 and 401-KAR 51-160. The regulations specify the sale of NOx credits by the state. EQC action was withheld until the next EQC meeting.

**Review of Water Regulations**

Ms. Dew deferred action on the KPDES draft regulations until a later meeting.

Executive Director, Leslie Cole gave the Commissioners a draft resolution concerning the Clean Water Act. Action will be taken at a later date.

Next meeting to be announced. With no further business, the meeting adjourned at 4:45 PM.



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Signed

January 17, 2003

Dated